

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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EDUARDO S.,

Plaintiff,

-v-

1:23-CV-815

COMMISSIONER OF  
SOCIAL SECURITY,

Defendant.

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APPEARANCES:

OF COUNSEL:

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INJURY & DISABILITY LAW  
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Attorneys for Defendant  
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Baltimore, MD 21235

GEOFFREY M. PETERS, ESQ.  
Special Ass't U.S. Attorney

DAVID N. HURD  
United States District Judge

**ORDER ON REPORT & RECOMMENDATION**

On July 7, 2023, plaintiff Eduardo S.<sup>1</sup> (“plaintiff”) filed this action seeking review of the final decision of defendant Commissioner of Social Security (“Commissioner”) denying his application for Supplemental Security Income (“SSI”) under the Social Security Act (the “Act”). Dkt. No. 1. Along with his complaint, plaintiff also sought leave to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 3.

Because plaintiff did not consent to the direct exercise of Magistrate Judge jurisdiction, Dkt. No. 4, the case was first referred to U.S. Magistrate Judge Andrew T. Baxter for a Report & Recommendation. *See id.* Judge Baxter granted plaintiff’s IFP Application, Dkt. No. 6, and set an initial briefing schedule, Dkt. No. 12. The matter was later reassigned to U.S. Magistrate Judge Mitchell J. Katz. Dkt. No. 13.

The Commissioner filed a certified copy of the Administrative Record, Dkt. No. 10, and the parties briefed the matter in accordance with General Order 18, which provides that an appeal taken from the Commissioner’s denial of benefits is treated as if the parties have filed cross-motions for a judgment on the pleadings, Dkt. Nos. 14, 20, 21.

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<sup>1</sup> In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only the first name and last initial of plaintiff will be mentioned in this opinion.

On May 31, 2024, Judge Katz recommended by Report & Recommendation (“R&R”) that plaintiff’s motion be denied, the Commissioner’s motion be granted, the Commissioner’s final decision be affirmed, and that plaintiff’s complaint be dismissed. Dkt. No. 22.

Plaintiff has lodged objections. Dkt. No. 23. The Commissioner has filed an opposition. Dkt. No. 24. Broadly stated, plaintiff argues that Judge Katz erred in his analysis of the ALJ’s treatment of the medical opinion evidence in formulating the RFC. According to plaintiff, the ALJ failed to explain why she (1) failed to credit certain portions of Dr. Stein’s opinion that assessed postural limitations; and (2) assessed a lesser set of manipulative limitations than were supported by the record. In plaintiff’s view, Judge Katz’s decision to uphold the ALJ’s findings amounts to clear error warranting remand.

Upon *de novo* review, however, plaintiff’s objections must be overruled. As the Commissioner explains, Judge Katz already thoroughly considered and rejected the arguments advanced by plaintiff. Further, an independent review of plaintiff’s objections in light of the ALJ’s decision and Judge Katz’s detailed R&R confirm that plaintiff’s claims are meritless. Accordingly, the R&R is accepted and will be adopted. *See* 28 U.S.C. § 636(b)(1)(C).

Therefore, it is

ORDERED that

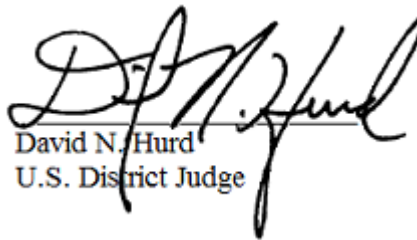
1. The Report & Recommendation (Dkt. No. 22) is ACCEPTED;

2. Plaintiff's motion is DENIED;
3. The Commissioner's motion is GRANTED;
4. The Commissioner's final decision is AFFIRMED; and
5. Plaintiff's complaint is DISMISSED.

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: July 17, 2024  
Utica, New York.



David N. Hurd  
U.S. District Judge